

**COMMISSION DIRECTIVE**

ADMINISTRATIVE MATTER

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DATE

December 10, 2008

MOTOR CARRIER MATTER

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DOCKET NO.

2007-445-A

UTILITIES MATTER

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ORDER NO.

**SUBJECT:**

DOCKET NO. 2007-445-A - 2008 Revisions to Public Service Commission's Practice and Procedure, Water and Sewerage, and Transportation Regulations - Discuss this Matter with the Commission.


**COMMISSION ACTION:**

Move that the written report that is required under Section 1-23-111 of the South Carolina Code be issued with regard to the revisions to the practice and procedure and transportation regulations. I further move that the report find that there is a need for certain changes to the proposed regulations and that the changes are reasonable. Specifically, Madame Chairman, due to the evidence presented at the hearing on September 10, 2008, and the input received from the Commission Advisory Committee, I move that we adopt Regulation 103-805 as attached to this Motion. This revised regulation includes provisions for representation of entities and representation of individuals. Further, the Regulation requires a Notice of Appearance to be filed upon a party's retention of legal representation, and it requires an attorney or other person to file a Motion to Withdraw from Representation of a party or from participation in proceedings, when appropriate. Additionally, the Regulation specifies that in certain unopposed matters an entity may proceed without counsel, and it requires a written statement from a representative of the party stating, in part, that the party assumes the risk and any resulting consequences, if any, of proceeding without legal counsel. I also move that the Commission adopt the provisions of 103-199.5. Adjustment of Bills for the transportation industry, as no opposition to this proposed regulation has been raised. Additionally, I move that the Commission hold in abeyance the proposed amendments to Regulation 103-114 regarding portable storage units and Regulation 103-133(7)(A)(7) regarding drug testing for passenger carrier drivers. Both of these proposed regulations need additional study by the Commission. Madame Chairman, if you recall, the Commission published a proposed stretcher van regulation in the State Register on April 25, 2008, and held a public hearing regarding the proposed regulation on June 25, 2008. Thereafter, we instructed the Staff to republish this regulation and to allow the public to provide comments on or before October 31, 2008. We received numerous comments after the second publication in the State Register, and I move that we adopt the proposed regulation with two changes. First, I move that Section A(1)(4) be amended to read "The driver assistant shall be seated in the passenger compartment while the vehicle is in motion and shall notify the driver of any change in the passenger's status." Next, I move that we delete the proposed Section (C)(2) and replace this Section with the following language: "An individual must not be transported in a stretcher van, if the individual has a written statement from a licensed physician stating that the individual must not be transported in a stretcher van." The purpose of this revision is to address some written comments from the public that expressed concern about the transportation of passengers who require constant medical attention.

PRESIDING: FlemingSESSION: RegularTIME: 2:30 p.m.

MOTION YES NO OTHER

CLYBURN

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FLEMING	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
HAMILTON	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
HOWARD	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>Absent</u>	Sick Leave
MITCHELL	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
WHITFIELD	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
WRIGHT	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		

RECORDED BY: J. Schmieding

## **103-805. Representation**

A. Parties and Their Representatives. Parties in a case have the right to participate or to be represented in all hearings or pre-hearing conferences related to their case. Except as otherwise provided herein, a party must be represented by an attorney admitted to practice law in South Carolina, or an attorney possessing a Limited Certificate of Admission pursuant to Rule 405, SCACR. No one shall be permitted to represent a party where such representation would constitute the unauthorized practice of law.

B. Representation of Entities. Except as otherwise provided in S.C. Code Ann. Regs. 103-805(E), any entity including, but not limited to, a corporation, partnership, limited liability company, or professional association, must be represented by an attorney admitted to practice law in South Carolina, or an attorney possessing a Limited Certificate of Admission pursuant to Rule 405, SCACR.

C. Representation of Individuals. An individual person not admitted to practice law in South Carolina may represent himself or herself, but may not represent another person. A party proceeding without legal representation shall remain fully responsible for compliance with the commission's regulations and the Administrative Procedures Act.

D. Notice of Appearance. An attorney or other person authorized to represent a party before the commission pursuant to this regulation shall file with the commission a notice of appearance when retained or authorized to represent a party after commencement of a case.

E. Unopposed Matters in Which an Entity May Proceed without Counsel. Subject to the conditions specified in this regulation, an entity may proceed through an authorized agent in any unopposed case, including but not limited to the following:

- 1) application for approval of a tariff,
- 2) application for approval of a contract,
- 3) application for approval of an interconnection agreement between telephone carriers,
- 4) application for approval of a name change,
- 5) application for a certificate of public convenience and necessity to operate as a Class C motor carrier, including a charter passenger carrier, a charter bus, and a taxi, and
- 6) application of a mover of household goods for a certificate of FWA.

If the entity chooses not to use an attorney, it shall include in its submission a written statement from the entity's president, chairperson, general partner, owner, chief executive officer, or authorized agent which states substantially the following:

"I am owner, officer, director, or other person authorized to act on behalf of [Name of Company], and on behalf of [Name of Company], I have elected to submit [Title of Document] to the Public Service Commission of South Carolina without the benefit of legal counsel admitted to practice in South Carolina. In electing to file [Title of

Document] without legal counsel, I acknowledge and agree to assume the risk, if any, of resulting adverse legal consequences.”

However, if the case becomes opposed, the unrepresented entity must obtain legal representation by an attorney authorized to practice law in South Carolina in order for the commission to allow the matter to proceed.

F. Motion to Withdraw from Representation. An attorney or other person authorized to represent a party before the commission pursuant to this regulation must file a written motion to withdraw from representation of a party or from participation in proceedings.

#### 103-199.5. Adjustment of Bills.

If it is found that a household goods motor carrier has directly or indirectly, by any device whatsoever, demanded, charged, collected or received from any customer a greater or lesser compensation for any service rendered by such carrier than that prescribed in the schedules of such carrier applicable thereto, then filed in the manner provided in Title 58 of the South Carolina Code of Laws; or if it is found that any customer has received or accepted any service from a carrier for a compensation greater or lesser than that prescribed in such schedules; or if, for any reason, billing error has resulted in a greater or lesser charge than that incurred by the customer for the actual service rendered, then the method of adjustment for such overcharge or undercharge shall be provided by the following:

1. Customer Inadvertently Overcharged. If the carrier has inadvertently overcharged a customer as a result of a misapplied schedule or any other human or machine error, the carrier shall at the customer's option credit or refund the excess amount paid by that customer or credit the amount billed.
2. Customer Inadvertently Undercharged. If the carrier has undercharged any customer as a result of a misapplied schedule, or any human or machine error, then the carrier may recover the deficient amount. The customer shall be allowed to pay the deficient amount, in equal installments over a period of six months.
3. Customer Willfully Overcharged. If the utility has willfully overcharged any customer, the carrier shall refund the difference, plus interest, as prescribed by the commission.
4. Customers and Carriers shall have two (2) years from the date of the transaction in question in which to apply for an adjustment as provided in this Regulation.

#### 103-133(8) PC&N (Stretcher Vans).

Stretcher van service is a mode of non-emergency transportation which may be provided to an individual who cannot be transported in a taxi or wheelchair van due to convalescence or being non-ambulatory. Stretcher vans are not required or authorized to provide medical monitoring, medical aid, medical care or medical treatment of passengers during their transport. Self-administered oxygen is permitted. In addition to meeting the requirements set out in 103-133(4) and 103-133(6) above, applicants for a Certificate of Public Convenience and Necessity for stretcher van vehicles must meet the following requirements:

##### A. Driver and Assistant Driver Qualifications/Requirements

1. While providing transportation for hire, all stretcher vans shall be staffed by both a primary and an assistant driver. In addition to the general requirements provided for in 103-133(6) (A), stretcher van drivers and driver assistants shall be trained in transferring, loading and unloading passengers in stretchers.
2. A stretcher van passenger shall not be left unattended at any time.
3. The driver and driver assistant shall confirm that all restraining straps are fastened properly and the stretcher, stretcher fasteners and anchorages are properly secured prior to the vehicle transporting a passenger.
4. The driver assistant shall be seated in the passenger compartment while the vehicle is in motion and shall notify the driver of any ~~sudden~~ change in the passenger's status condition.

##### B. Vehicle Requirements

1. The stretcher van must be equipped with a stretcher used to transport individuals in the supine or Fowler's position.
2. Passengers shall be loaded headfirst.
3. The approved stretcher shall be elevating and wheeled. A minimum of three (3) patient restraining straps (chest, waist, and thigh) at least two (2) inches wide shall be provided. The stretcher van shall have proper means to secure the stretcher in its position under all conditions. Crash-stable stretcher fasteners must be provided.
4. A stretcher van vehicle must be maintained in good repair and safe operating condition and shall meet the same motor vehicle safety requirements as apply to all vehicles in South Carolina. Exterior surfaces of the vehicle including windows, mirrors, warning devices and lights must be undamaged and kept clean of dirt and debris.
5. Safety belts must be provided for all passengers.
6. Self-administered oxygen must be secured in accordance with AMD (Ambulance Manufacturers Division of the National Truck Equipment Association) Standard 003, "Oxygen Tank Retention System Test."
7. The interior of the stretcher van vehicle shall include secured storage compartments.
8. All storage compartments, supplies and equipment shall be kept clean and sanitary.
9. A stretcher van shall not contain medical equipment or supplies or display any marking, symbols or warning devices that imply that it offers medical care or ambulance transportation.
10. A stretcher van shall not respond or transport a person if the request for service originated within a public dispatch system.

##### C. Limitations and Conditions of Service

1. Stretcher van vehicles shall not be used:
  - a. To transport a passenger who requires medical monitoring.
  - b. To transport more than one (1) stretcher passenger at a time.
  - c. To transport a person who is being administered intravenous fluids.
  - d. To transport a person who needs or may need oxygen unless that person's physician has prescribed oxygen as a self-administered therapy.
  - e. To transport a passenger who needs or may need suctioning.
  - f. To transport a passenger who has sustained an injury and has not yet been evaluated by a physician.
  - g. To transport a passenger who is experiencing an acute condition or the exacerbation of a chronic condition or a sudden injury or illness.
  - h. To transport a passenger who needs to be transported from one hospital to another hospital if the destination hospital is the same level or a higher level as the hospital of origin.
  - i. To transport a passenger who is being evaluated in an emergency room and for any reason must be transported to another hospital for diagnostic tests that are not available at the first hospital.

~~2. When the medical condition of a passenger suddenly changes and requires care to be rendered, the operator of the stretcher van will immediately contact the local 911 dispatcher to request help, then notify their own base of operations to advise them of the situation. Appropriate basic first aid shall be initiated and continued until the EMS service has intercepted the transport or arrival at the hospital.~~

2. An individual must not be transported in a stretcher van, if the individual has a written statement from a licensed physician stating that the individual must not be transported in a stretcher van.